



United States Department of the Interior
FISH AND WILDLIFE SERVICE

Eastern Idaho Field Office
4425 Burley Dr., Suite A
Chubbuck, Idaho 83202
Telephone (208) 237-6975
<http://www.fws.gov/idahoes/>



TETON COUNTY
PLANNING & ZONING

SEP 23 2010

RECEIVED

SEP 21 2010

Wendy Danielson
Teton County
150 Courthouse Drive
Suite 107
Driggs, Idaho 83422

Subject: Proposed Heritage Peaks Subdivision in Teton County, Idaho.

Dear Ms. Danielson:

The Fish and Wildlife Service (Service) is providing you with a list of endangered, threatened, proposed, and/or candidate species, and designated critical habitat which may occur in the area of the proposed Heritage Peaks Subdivision in Teton County, Idaho. You requested this list by letter on September 14, 2010 and received in our office on September 17, 2010.

The Endangered Species Act of 1973, as amended (Act) includes provisions for the conservation of listed species on both Federal and non-Federal lands. A private landowner may wish to enter into an agreement with the Service under section 10 of the Act for activities that benefit listed, proposed, and candidate species. Voluntary agreements such as Safe Harbor Agreements or Candidate Conservation Agreements contribute to the conservation of listed, proposed, or candidate species while allowing for management activities on non-Federal lands. In addition, Section 9 of the Act prohibits the "taking" of any listed species without an exemption (issued by the Service) for that take¹. For private landowners, that exemption is developed through the permit process of Section 10 (through a Habitat Conservation Plan) of the Act. More information on the various mechanisms for take exemption available to private landowners under the Act can be found at <http://www.fws.gov/idaho/Landowners.htm>.

Section 7 of the Act requires Federal agencies to assure that their actions do not jeopardize any listed species and provides a process for exemption of take for federal agencies. If there is a Federal action (funding, permitting, or direct action) associated with your project, the Federal

¹ Take of threatened or endangered animal species is defined as; harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harm is further defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is defined by the Service as an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering.

Federal action (funding, permitting, or direct action) associated with your project, the Federal agency is required to consult with the Service if the action may affect a listed species. Section 7 regulations allow for applicants to be involved in the consultation process. For instance, a Federal agency may designate you or another non-Federal entity to represent them in an informal consultation.

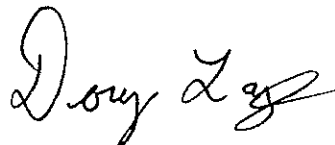
The enclosed list fulfills the requirements for a species list under section 7(c) of the Act. If the project decision has not been made within 180 days of this letter, regulations require that you request an updated list. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at

<http://www.fws.gov/endangered/consultations/s7hndbk/s7hndbk.htm>. Section 7 consultation information specific to Idaho listed species can also be found on the Snake River Fish and Wildlife Office website at <http://www.fws.gov/idaho/species.htm>.

For more information on grizzly bears, and living and recreating in grizzly bear country, please visit the Service's Mountain-Prairie Region Grizzly Bear Recovery Home Page at: http://mountain-prairie.fws.gov/species/mammals/grizzly/fact_sheets.htm.

If you have any questions about your responsibilities under section 7 of the Act, or require further information, please contact Ty Matthews of our Eastern Idaho Field Office at (208)237-6975 extension 115. Thank you for your interest in endangered species conservation.

Sincerely,

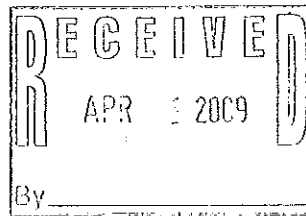
A handwritten signature in dark ink, appearing to read "Doug Ziegler", is written over the typed name.

Acting Supervisor,
Eastern Idaho Field Office

Enclosures



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY



900 North Skyline Drive, Suite B • Idaho Falls, Idaho 83402 • (208) 528-2650

G.L. "Butch" Otter, Governor
Toni Hardesty, Director

March 25, 2009

Patrick Vaile
Teton County P&Z Administrator
89 N. Main Street
Driggs, ID

**Re: Heritage Peaks PUD-Teton County, Water Quality Impact Analysis (NP Evaluation).
DEQ # 09-01-41**

Dear Mr. Vaile

Teton County has required the preparation of a Water Quality Impact Analysis (NP Evaluation) for the Heritage Peaks PUD pursuant to the Teton County Subdivision Ordinance. Teton County has requested DEQ review the NP Evaluation. This letter contains DEQ's comments and recommendations regarding the NP Evaluation. This letter does not constitute an approval, license, permit or any other form of authorization required by law. The comments and recommendations contained in this letter are provided to Teton County for its consideration in reviewing the development pursuant to Teton County law. The letter reflects DEQ's opinion, based upon the information and analysis in the NP Evaluation, regarding whether the discharges from wastewater systems for the proposed development will comply with the Idaho Ground Water Rule and Idaho Water Quality Standards. The comments and recommendations, however, are not binding and Teton County is free to disregard this letter.

The DEQ has the following comments regarding the NP Evaluation:

1. The NP Evaluation does not discuss or address the fate transport of pathogens or their effects on ground water.
2. The NP Evaluation does not discuss or address the fate transport of phosphorus to the ground water or adjacent Spring Creek. It is uncertain whether there exists a connection of ground water (either the shallow perched water (wetlands) or the upper unconfined aquifer) to the surface water of Spring Creek. Spring Creek is not a 303d listed stream and currently has no TMDL and has not been listed as water quality limited, however the USEPA Gold Book (USEPA, 1986) water quality guideline values for total phosphorous should guide the evaluation if there exists a connectivity of either the shallow perched water or the upper unconfined aquifer to Spring Creek. The US EPA water quality value for phosphorous for streams is 0.100 mg/l.



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

900 North Skyline Drive, Suite B • Idaho Falls, Idaho 83402 • (208) 528-2650

C.L. "Butch" Otter, Governor
Toni Hardesty, Director

July 16, 2010

Patrick Vaile
Teton County P&Z Administrator
89 N. Main Street
Driggs, ID

Re: Heritage Peaks PUD-Teton County, Water Quality Impact Analysis Addendum (NP Evaluation). DEQ # 09-01-41

Dear Mr. Vaile

Teton County has required the preparation of a Water Quality Impact Analysis (NP Evaluation) for the Heritage Peaks PUD pursuant to the Teton County Subdivision Ordinance. Teton County has requested DEQ review the NP Evaluation. This letter contains DEQ's comments and recommendations regarding the NP Evaluation. This letter does not constitute an approval, license, permit or any other form of authorization required by law. The comments and recommendations contained in this letter are provided to Teton County for its consideration in reviewing the development pursuant to Teton County law. The letter reflects DEQ's opinion, based upon the information and analysis in the NP Evaluation, regarding whether the discharges from wastewater systems for the proposed development will comply with the Idaho Ground Water Rule and Idaho Water Quality Standards. The comments and recommendations, however, are not binding and Teton County is free to disregard this letter.

The DEQ has the following comments regarding the NP Evaluation:

1. DEQ feels that all of our previous comments have been addressed and that the Water Quality Impact Analysis is acceptable.
2. It is DEQ's opinion that there will be no significant impacts to the ground or surface waters if the recommendations are followed as presented in Section 5 of the Water Quality Impact Analysis Addendum which are summarized below:
 - a) By reducing the number of lots to 2 lots.
 - b) By the installation of advanced treatment units for the septic systems in order to meet the effluent quality of 27mg/l nitrate concentration, along with sand mound or cap and fill trenches for the drain fields. Also by meeting all set backs as established in the Technical Guidance Manual (TGM). And by assuring the established placements for the septic tanks, drain fields and wells are clearly shown on the amended preliminary plat.

If you have any questions regarding this letter or if we can be of further assistance, please call (208) 528-2650.

2010 AGD 2978



IDAHO DEPARTMENT OF FISH AND GAME
UPPER SNAKE REGION
4279 Commerce Circle
Idaho Falls, Idaho 83401

C.L. "Butch" Otter / Governor
Cal Groen / Director

October 28, 2010

J. Curt Moore
Teton County Planning and Zoning
150 Courthouse Drive, Room 107
Driggs, ID 83422

RE: Heritage Peaks Subdivision

Dear Curt:

We have reviewed the Preliminary Plat proposal, Natural Resources Analysis, and Wetlands Delineation Report for the Heritage Peak Subdivision. Resident species of fish and wildlife are the property of all citizens within the state (Idaho Code § 36-103(a)), and decisions affecting fish and wildlife therefore are the concern of all Idahoans. The Idaho Department of Fish and Game (Department), acting under the supervision of the Idaho Fish and Game Commission, is charged with the statutory responsibility to preserve, protect, perpetuate, and manage all fish and wildlife in Idaho (Idaho Code § 36-103(a)). As such, we advocate that fish and wildlife receive equal consideration with other resources in decisions affecting land and water management and offer the following comments.

This general area shown on the plat map has been historically grazed as have most areas that cannot be cultivated in the Teton Valley. With its diverse vegetation and location primarily in a wetland, this area offers high value habitat for many animal classes including birds, mammals, reptiles, and fish.

Yellowstone cutthroat trout (YCT), a species of special concern, has access to Spring Creek during periods of high water and utilizes the Spring Creek drainage for possible feeding, migration, and spawning. With recent petitions to have YCT listed under the Endangered Species Act, it is imperative that this water system is protected from pollutants. This waterway could be compromised if suitable septic systems are not used. This entire system makes its way to the Teton River which is also important Yellowstone Cutthroat trout habitat.

From the plat, most of this property will remain undeveloped. The two home sites will not significantly alter wildlife habitat or movements. This project area is located adjacent to a major highway and other residences, so it accustoms local wildlife to human disturbances.

We recommend Teton County P&Z include the following requirements for this development:

1. Plat notes should include an agreement that landowners cannot file a claim against the Idaho Department of Fish and Game for wildlife damage to their property.
2. Plat notes should include language prohibiting the feeding of wildlife, especially elk and deer. It should be noted that recent legislation strictly prohibits the private feeding of big game animals in

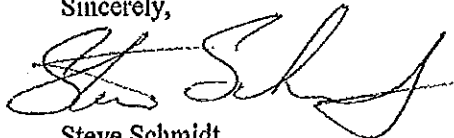
Keeping Idaho's Wildlife Heritage

this area (IDAPA 02.04.25.001). Song birds would not be included in this prohibition, however, bird feeders should be prohibited March through November when bears are active.

3. Plat notes should require pets (dogs and cats) be restrained or directly attended at all times.
4. Plat notes should require that all fences be constructed to allow wildlife passage. Buck-and-rail and woven wire fences should be prohibited. Barbed wire fences should not be taller than 42 inches, have smooth wire on top, and be constructed to be let down in winter.
5. Plat notes should require that hay and/or other domestic livestock feed stored on the property be tightly paneled to exclude elk and deer. Design specifications are available from IDFG.
6. Utility lines should be constructed underground. Utility poles are favored perches of numerous raptors which prey on young grouse chicks. Sharp-tailed grouse nesting is suspected to occur in the proposed development area.
7. Noxious weeds must be controlled. Yellow toadflax, musk thistle, Canada thistle, spotted knapweed, and leafy spurge are present in this area.
8. Garbage should be kept in bear proof containers and removed at least once a week.
9. If this development does not commence within five years, it must be resubmitted through the new development process again.

Thank you for providing us an opportunity to comment on this proposal for the Heritage Peaks Subdivision. Please contact Paul Faulkner of my staff at 208-525-7290 if you have questions about our comments.

Sincerely,



Steve Schmidt
Regional Supervisor

SLS:TT:jms

cc: Natural Resources Policy Bureau, IDFG
Terry Thomas, IDFG
Charlie Anderson, IDFG
Deb Mignogno, USFWS-Eastern Idaho Field Office

Curt Moore

From: Joyner, James M NWW [James.M.Joyner@usace.army.mil]
Sent: Thursday, March 10, 2011 12:08 PM
To: Curt Moore
Subject: Cattle Creek Ranch PUD Preliminary Plat (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Curt,

We received your notice and request for comments on the Cattle Creek Ranch PUD Preliminary Plat. As you are aware several Department of the Army (DA), Clean Water Act (CWA) permits have been verified for work at the site over the last few years and wetlands and waters on the property have been delineated/mapped. It appears that the three proposed residential lots would be located in upland, while the two "open space" lots would consist primarily of wetland areas. No permit would be required from the Corps of Engineers to develop upland portions of the property. However, should fills and/or work later be proposed in wetland areas on the property a DA CWA permit may be required.

James M. Joyner
Regulatory Project Manager

US Army Corps of Engineers
Walla Walla District
Idaho Falls Regulatory Office
900 North Skyline Drive, Suite A
Idaho Falls, Idaho 83402
Bus (208) 522-1676
Fax (208) 522-2994
james.m.joyner@usace.army.mil

Condition?
+
Approval

Classification: UNCLASSIFIED

Caveats: NONE



TETON COUNTY OFFICE

820 Valley Centre Drive
Driggs, Idaho 83422
208.354.2220 • fax 354.2224
www.idaho.gov/phd7

Promoting the Health of People & Their Environment

7 April 2011

Teton County Planning and Zoning
150 Courthouse Drive
Driggs, ID 83422

AW Engineering
255 South Main Street, PO Box 139
Victor, Idaho 83455

**TETON COUNTY
PLANNING & ZONING**

APR 07 2011

RECEIVED

RE: Heritage Peaks Subdivision

Eastern Idaho Public Health District approves the Subdivision Application and Final Plat (revised 4/05/11) for Heritage Peaks Subdivision. Attached are the Sanitary Rules/Regulations and Health Certificate for this development. Please ensure this sanitary information is properly recorded with the final plat, and that the plat cover page contains the attached certificate, replacing the one shown.

If this application/plat changes for any reason, please coordinate those changes, in advance, with this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Dronen", with a long horizontal stroke extending to the right.

Michael Dronen, EHS
Eastern Idaho Public Health District

cc. Teton County Engineer

Atchs: Sanitary Rules and Regulations
Health Certificate

SANITARY RULES AND REGULATIONS

Heritage Peaks Subdivision (Section 34, T6N, R45E)

The subject land development has been reviewed for sanitary restrictions described in Idaho Code Section 50-1326. The following comments are intended to inform and educate all parties as to the sewage disposal and/or potable water situations particular to this development. **These comments are to be recorded and available for review with the final plat.**

Sewage Disposal:

An on-site evaluation, plat review and records search has confirmed individual subsurface sewage disposal systems will be allowed in accordance with IDAPA 58.01.03 and the Technical Guidance Manual for Individual and Subsurface Sewage Disposal. All Idaho Rules and site suitability criteria must be met. In accordance with the Nutrient Pathogen Evaluation, dated 5 July 2010, advanced treatment systems capable of achieving a 27 mg/l nitrate concentration are required. Maximum loading is 300 gal/day/lot. Mounded drainfields will be required, and installed in locations as shown on the Master Plan. Any construction in wetlands requires prior US Army Corps of Engineers approval. **A septic permit application must be submitted to the Eastern Idaho Public Health District, and a permit approved, prior to building on any lot.** To receive a permit, the applicant will be required to submit a detailed plot plan and building plans. An evaluation of site specific test holes will be necessary for permit approval.

Potable Water:

Individual well drilling is authorized by the Idaho Department of Water Resources. Individual wells are to be located as shown on the Master Plan.

These lots are subject to all applicable public health and sanitation regulations, as well as, county ordinances. No inhabitable dwelling shall be constructed without a valid sewage disposal permit.

The following Health Certificate is to be placed on the plat and signed by the Eastern Idaho Public Health District representative prior to recording with the county.

Health Certificate

SANITARY RESTRICTIONS AS REQUIRED BY IDAHO CODE, TITLE 50, CHAPTER 13 HAVE BEEN SATISFIED SUBJECT TO THE INFORMATION CONTAINED IN THE ATTACHED SANITARY RULES AND REGULATIONS. SANITARY RESTRICTIONS MAY BE REIMPOSED, IN ACCORDANCE WITH SECTION 50-1326, IDAHO CODE, BY THE ISSUANCE OF A CERTIFICATE OF DISAPPROVAL.

DISTRICT HEALTH DEPARTMENT, EHS

DATE



TETON COUNTY OFFICE

820 Valley Centre Drive
Driggs, Idaho 83422
208.354.2220 • fax 354.2224
www.idaho.gov/phd7

Promoting the Health of People & Their Environment

Teton County Planning and Zoning
150 Courthouse Drive
Driggs, Idaho 83422

**TETON COUNTY
PLANNING & ZONING**

OCT 28 2010

RECEIVED

AW Engineering
255 South Main, PO Box 139
Victor, Idaho 83455

RE: Heritage Peaks Subdivision

Eastern Idaho Public Health District approves the subdivision application and preliminary plat (revised 16 Aug 10) for Heritage Peaks Subdivision. As stated in our letter of 16 Aug 10, same subject, the following comments are intended to provide additional information regarding conditions necessary to obtain an individual on-site sewage disposal permit.

1. All site suitability criteria, contained in the Technical Guidance Manual for Individual Sewage Disposal Systems, must be met. This includes required separation distances to permanent, intermittent, and temporary surface water features, and irrigation ditches and canals.
2. Sewage disposal systems must meet the conditions stated in the DEQ letter, dated 16 Jul 2010, RE: Heritage Peaks PUD-Teton County, Water Quality Impact Analysis Addendum (NP Evaluation) DEQ #09-01-41. Systems must also comply with paragraph 5 of The Level 1 Nutrient/Pathogen Evaluation Addendum for Heritage Peaks Subdivision, dated 5 Jul 2010, with the following exception: private wells must be a minimum of 100 feet from drainfields and 50 feet from septic tanks.
3. Any construction involving identified wetlands (to include transfer lines crossing wetlands) will require prior approval from the US Army Corps of Engineers.

The sanitary rules/regulations and appropriate health certificate for this development will be provided following a review of the final plat. Please give me a call if you have any additional questions.

Michael Dronen, EHS
Eastern Idaho Public Health District



WK: 208-354-0245
CELL: 208-313-0245

**Teton County Engineer
MEMO**

150 Courthouse Dr.
Driggs, Idaho 83422

October 29, 2010

TO: Teton County Planning and Zoning Commissioners
FROM: Louis Simonet
SUBJECT: Heritage Peaks Subdivision Comments

The following are my comments for the Teton County Planning and Zoning Commission meeting to be held on November 9, 2010. These items should be addressed prior to final application, and these comments should be carried over automatically as final comments.

1. This comment pertains to the drain fields for the septic systems.

a... Because of the following:

- i. With the amount of possible locations for temporary surface water features.
- ii. With the possibility of having the drain field change in size and type after the public improvements have been completed and the ownership of the lots have changed hands.
- iii. With the possibility of the design of the drain field determining the size, or number of bedrooms, of a house.

b... It is recommended that something be done to verify that the next owner of the property know in advance that there MAY be an impact to the design of their home due to public health standards. Therefore, can one of the following be completed:

- i. Can the Engineer of Record (EOR) for the subdivision certify as to the type and size of the drain field, and pre-design this system so that there are known parameters as to these drain field systems and the impacts that it would have on the lot.
- ii. Can a note be stated on the master plan what the possible impacts of the temporary surface water features would have on the drain field.
- iii. Can the EOR for the subdivision certify that all site suitability criteria, contained in the Technical Guidance Manual for Individual Sewage Disposal Systems, be met by the proposed location and size of the drain fields. If so can this be stated on the Master Plan, and the size, type and location of the drain fields should be clearly shown on the Plan.

c... This question is brought forward for both discussion and review. I feel that it would be to the benefit of the developer to pre-discuss this with myself, the county planner, and EPHID. Please feel free to contact me about this at any time. I am not fixed on only one answer and would love to hear any other possible solutions.

2. This comment pertains to the concerns of the flood plain line that is shown on the preliminary plat.

a...Please verify that FEMA Map 160581C0094C is the correct map.

b...I have a concern as to where the Flood Plain is located. Can the EOR do one of the following:

- i. Certify that the building envelopes and public works are not going to be impacted by the flood plain.
- ii. Complete a study verifying where the flood plain is located.
- iii. Require specific FEMA approved construction of the residences where they would be impacted by the flood plain.
- iv. Provide some other certification/notice that alerts the property owner of the possible impact of the Flood Plain.

3. Preliminary Plat:

a. Please show what the dedications are:

- i. Is the road dedicated to the HOA? Heritage Drive should be dedicated to a single entity so that they can have control over the road. If there needs to be additional easements dedicated to the utilities, please do so.
- ii. Is the 30' County Road ROW dedicated to the county. It appears that the property line goes to the center line of the county road. This 30' section should be a separate parcel dedicated to the county.
- iii. Is the turn around area dedicated to anyone. This should be part of the road or at least shown as an easement that is dedicated to someone. Preferably, it is part of the road property.
- iv. Who is the open space dedicated to. Who is responsible to maintain it.
- v. Who are the head gates and irrigation ditches dedicated to. They should be dedicated to the proper owners and access to them should be granted to the owners for maintenance.

b. Please locate all aspects of the plat.

- i. Please locate the drain fields. Since these will probably be shown on the Master Plan and not on the Plat at the final application, then these should be located on the master plan. See comment #1.
- ii. Please locate the building envelopes. If the building envelopes are shown on the Plat they should also be shown on the Plan. See comment #2.
- iii. Please locate the easements for the irrigation ditches and access to them.

c. Please state somewhere on the Plan the requirements for well head elevations versus the water elevation. It appears that the well will be drilled in wetlands and possibly next to a creek/ditch in which case this difference in elevation requirement for a well should be noted on the Plan. (Is should not be noted on the plat since this is not a survey item.)

d. On the road plans there is a 20'x30' landscape and mailbox area that is not shown on the plat or the plan. Please show on the plat and dedicate to the correct person/entity. Please show on the plan.

e. Legend, Please verify all labels and line types.

f. Is this a PUD or a Subdivision. All documents should state it correctly.

4. Improvement Plans (Road Plans): Sheet 1 and 2:

- a. Please provide a design for the road signs and the subdivision entrance sign.
- b. Please provide a design for the turn around. Including width, length and a plan view and cross section.
- c. Please provide a design for the mailbox and landscape easement.
- d. Road Profile View: Please show that the structural backfill will provide drainage as shown on the county standards. Typical road section shall show the bottom of the sub base the full width of both lanes and the shoulders and shall continue until it intersects the 4:1 slope. Compacted native material shall NOT be used for that portion of the 4:1 slope above the bottom of the sub-grade.
- e... Please state (on the plans) the inspection requirements per the Teton County standards.
- f. .. Please state (on the plans) the standards used:
 - i. Road standards:
 - ii. Well Standards
 - iii. Erosion control standards
 - iv. Septic standards
 - v. Fire standards
 - vi. Water standards
 - vii. Sewer standards
- g... Please provide a design and the sizing calculations for the culvert at the end of the road. This should include details for construction.
- h... Please label the improvement plans as such to match the development agreement.

5. Development Agreement.

- a... Section 16, As constructed plans shall be turned over to the Planning office.
- b... Section 3, Signs: the signs shall be retro-reflective, unless it is deemed that the subdivision sign is to be not-reflective.
- c... Section 6, Building permits: Can a note stating that no CO can be obtained until the improvements have been completed, be recorded on the Plan in order to notify future property owners.
- d... It may be advantageous to both the county and the developer to have the surety end a couple of months after the development agreement expires. That way, the developer can complete the construction of the public improvements by a specific date, and then the county can do the final inspections and project close out. This is just a recommendation for discussion.
- e... Section 15: final inspection request by the contractor should be in writing or by electronic mail. This request and all correspondence should be through the Planning office.
- f. .. Section 2 states that there is to be fire protection installed. Please have the Fire Dist. verify, in writing, that no fire protection is needed for this subdivision.

6. Please place a note on the Master Plan that states what was stated on comment #3 in the letter received by Eastern Idaho Public Health District. The note should state "Any construction

involving identified wetlands (including transfer lines crossing wetlands) will require prior approval from the US Army Corps of Engineers.”

7. Please verify that no wetland permits are required prior to starting the public improvements. If there are permits required please state who is responsible to obtain them.

If there are any questions please call or email.

Thanks,

Louis Simonet